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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,648	09/30/2003	Kenneth E. Salsman	ITL.1005US (P16610)	5824
21906 7590 07/10/2009 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER KOVALICK, VINCENT E	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 07/10/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH E. SALSMAN

Appeal 2009-005212
Application 10/675,648
Technology Center 2600

Mailed: July 10, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 11, 2008. A Docketing Notice was mailed and Appeal No. 2009-005212 was assigned on March 9, 2009. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims 1-3, 5-9, and 27-30. The rejected claims that have not been appealed and/or argued for appeal are claims 1, 3, 5-9, 27, 29, and 30.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 7, Sept 2008).

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to enter a paper canceling claims 1, 3, 5-9, 27, 29, and 30; and
- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims;

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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